

mittee on Intelligence of the House of Representatives;

(2) the term “enemy” means any country, government, group, or person that has been engaged in hostilities, whether or not lawfully authorized, with the United States;

(3) the term “person” means—

- (A) any natural person;
- (B) any corporation, partnership, or other legal entity; and
- (C) any organization, association, or group; and

(4) the term “spoils of war” means enemy movable property lawfully captured, seized, confiscated, or found which has become United States property in accordance with the laws of war.

(Pub. L. 103-236, title V, §555, Apr. 30, 1994, 108 Stat. 482.)

CHANGE OF NAME

Committee on Foreign Affairs of House of Representatives treated as referring to Committee on International Relations of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress.

§ 2205. Construction

Nothing in this chapter shall apply to—

(1) the abandonment or failure to take possession of spoils of war by troops in the field for valid military reasons related to the conduct of the immediate conflict, including the burden of transporting such property or a decision to allow allied forces to take immediate possession of certain property solely for use during an ongoing conflict;

(2) the abandonment or return of any property obtained, borrowed, or requisitioned for temporary use during military operations without intent to retain possession of such property;

(3) the destruction of spoils of war by troops in the field;

(4) the return of spoils of war to previous owners from whom such property had been seized by enemy forces; or

(5) minor articles of personal property which have lawfully become the property of individual members of the armed forces as war trophies pursuant to public written authorization from the Department of Defense.

(Pub. L. 103-236, title V, §556, Apr. 30, 1994, 108 Stat. 483.)

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§ 2301. Findings

Congress makes the following findings:

- (1) Weapons of mass destruction and related materials and technologies are increasingly available from worldwide sources. Technical information relating to such weapons is readily available on the Internet, and raw materials for chemical, biological, and radiological weapons are widely available for legitimate commercial purposes.
- (2) The former Soviet Union produced and maintained a vast array of nuclear, biological, and chemical weapons of mass destruction.
- (3) Many of the states of the former Soviet Union retain the facilities, materials, and technologies capable of producing additional quantities of weapons of mass destruction.
- (4) The disintegration of the former Soviet Union was accompanied by disruptions of command and control systems, deficiencies in accountability for weapons, weapons-related materials and technologies, economic hardships, and significant gaps in border control among the states of the former Soviet Union. The problems of organized crime and corruption in the states of the former Soviet Union increase the potential for proliferation of nuclear, radiological, biological, and chemical weapons and related materials.
- (5) The conditions described in paragraph (4) have substantially increased the ability of potentially hostile nations, terrorist groups, and individuals to acquire weapons of mass destruction and related materials and technologies from within the states of the former Soviet Union and from unemployed scientists who worked on those programs.
- (6) As a result of such conditions, the capability of potentially hostile nations and terrorist groups to acquire nuclear, radiological, biological, and chemical weapons is greater than at any time in history.
- (7) The President has identified North Korea, Iraq, Iran, and Libya as hostile states which already possess some weapons of mass destruction and are developing others.
- (8) The acquisition or the development and use of weapons of mass destruction is well within the capability of many extremist and

terrorist movements, acting independently or as proxies for foreign states.

(9) Foreign states can transfer weapons to or otherwise aid extremist and terrorist movements indirectly and with plausible deniability.

(10) Terrorist groups have already conducted chemical attacks against civilian targets in the United States and Japan, and a radiological attack in Russia.

(11) The potential for the national security of the United States to be threatened by nuclear, radiological, chemical, or biological terrorism must be taken seriously.

(12) There is a significant and growing threat of attack by weapons of mass destruction on targets that are not military targets in the usual sense of the term.

(13) Concomitantly, the threat posed to the citizens of the United States by nuclear, radiological, biological, and chemical weapons delivered by unconventional means is significant and growing.

(14) Mass terror may result from terrorist incidents involving nuclear, radiological, biological, or chemical materials.

(15) Facilities required for production of radiological, biological, and chemical weapons are much smaller and harder to detect than nuclear weapons facilities, and biological and chemical weapons can be deployed by alternative delivery means other than long-range ballistic missiles.

(16) Covert or unconventional means of delivery of nuclear, radiological, biological, and chemical weapons include cargo ships, passenger aircraft, commercial and private vehicles and vessels, and commercial cargo shipments routed through multiple destinations.

(17) Traditional arms control efforts assume large state efforts with detectable manufacturing programs and weapons production programs, but are ineffective in monitoring and controlling smaller, though potentially more dangerous, unconventional proliferation efforts.

(18) Conventional counterproliferation efforts would do little to detect or prevent the rapid development of a capability to suddenly manufacture several hundred chemical or biological weapons with nothing but commercial supplies and equipment.

(19) The United States lacks adequate planning and countermeasures to address the threat of nuclear, radiological, biological, and chemical terrorism.

(20) The Department of Energy has established a Nuclear Emergency Response Team which is available in case of nuclear or radiological emergencies, but no comparable units exist to deal with emergencies involving biological or chemical weapons or related materials.

(21) State and local emergency response personnel are not adequately prepared or trained for incidents involving nuclear, radiological, biological, or chemical materials.

(22) Exercises of the Federal, State, and local response to nuclear, radiological, biological, or chemical terrorism have revealed serious deficiencies in preparedness and severe problems of coordination.

(23) The development of, and allocation of responsibilities for, effective countermeasures to nuclear, radiological, biological, or chemical terrorism in the United States requires well-coordinated participation of many Federal agencies, and careful planning by the Federal Government and State and local governments.

(24) Training and exercises can significantly improve the preparedness of State and local emergency response personnel for emergencies involving nuclear, radiological, biological, or chemical weapons or related materials.

(25) Sharing of the expertise and capabilities of the Department of Defense, which traditionally has provided assistance to Federal, State, and local officials in neutralizing, dismantling, and disposing of explosive ordnance, as well as radiological, biological, and chemical materials, can be a vital contribution to the development and deployment of countermeasures against nuclear, biological, and chemical weapons of mass destruction.

(26) The United States lacks effective policy coordination regarding the threat posed by the proliferation of weapons of mass destruction.

(Pub. L. 104-201, div. A, title XIV, § 1402, Sept. 23, 1996, 110 Stat. 2715.)

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104-293, title VII, § 701, Oct. 11, 1996, 110 Stat. 3470, provided that: "This title [enacting section 2366 of this title and provisions set out as a note under section 2351 of this title] may be cited as the 'Combatting Proliferation of Weapons of Mass Destruction Act of 1996'."

SHORT TITLE

Section 1401 of title XIV of div. A of Pub. L. 104-201 provided that: "This title [enacting this chapter, section 382 of Title 10, Armed Forces, and sections 175a and 2332d of Title 18, Crimes and Criminal Procedure, amending section 1705 of this title, section 372 of Title 10, and provisions set out as a note under section 5955 of Title 22, Foreign Relations and Intercourse] may be cited as the 'Defense Against Weapons of Mass Destruction Act of 1996'."

§ 2302. Definitions

In this chapter:

(1) The term "weapon of mass destruction" means any weapon or device that is intended, or has the capability, to cause death or serious bodily injury to a significant number of people through the release, dissemination, or impact of—

- (A) toxic or poisonous chemicals or their precursors;
- (B) a disease organism; or
- (C) radiation or radioactivity.

(2) The term "independent states of the former Soviet Union" has the meaning given that term in section 5801 of title 22.

(3) The term "highly enriched uranium" means uranium enriched to 20 percent or more in the isotope U-235.

(Pub. L. 104-201, div. A, title XIV, § 1403, Sept. 23, 1996, 110 Stat. 2717.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this title", meaning title XIV of div. A of Pub. L.

104-201, Sept. 23, 1996, 110 Stat. 2714, which is classified principally to this chapter. For complete classification of title XIV to the Code, see Short Title note set out under section 2301 of this title and Tables.

SUBCHAPTER I—DOMESTIC PREPAREDNESS

§ 2311. Response to threats of terrorist use of weapons of mass destruction

(a) Enhanced response capability

In light of the potential for terrorist use of weapons of mass destruction against the United States, the President shall take immediate action—

(1) to enhance the capability of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction; and

(2) to provide enhanced support to improve the capabilities of State and local emergency response agencies to prevent and respond to such incidents at both the national and the local level.

(b) Report required

Not later than January 31, 1997, the President shall transmit to Congress a report containing—

(1) an assessment of the capabilities of the Federal Government to prevent and respond to terrorist incidents involving weapons of mass destruction and to support State and local prevention and response efforts;

(2) requirements for improvements in those capabilities; and

(3) the measures that should be taken to achieve such improvements, including additional resources and legislative authorities that would be required.

(Pub. L. 104-201, div. A, title XIV, § 1411, Sept. 23, 1996, 110 Stat. 2717.)

§ 2312. Emergency response assistance program

(a) Program required

(1) The Secretary of Defense shall carry out a program to provide civilian personnel of Federal, State, and local agencies with training and expert advice regarding emergency responses to a use or threatened use of a weapon of mass destruction or related materials.

(2) The President may designate the head of an agency other than the Department of Defense to assume the responsibility for carrying out the program on or after October 1, 1999, and relieve the Secretary of Defense of that responsibility upon the assumption of the responsibility by the designated official.

(3) In this section, the official responsible for carrying out the program is referred to as the "lead official".

(b) Coordination

In carrying out the program, the lead official shall coordinate with each of the following officials who is not serving as the lead official:

(1) The Director of the Federal Emergency Management Agency.

(2) The Secretary of Energy.

(3) The Secretary of Defense.

(4) The heads of any other Federal, State, and local government agencies that have an

expertise or responsibilities relevant to emergency responses described in subsection (a)(1) of this section.

(c) Eligible participants

The civilian personnel eligible to receive assistance under the program are civilian personnel of Federal, State, and local agencies who have emergency preparedness responsibilities.

(d) Involvement of other Federal agencies

(1) The lead official may use personnel and capabilities of Federal agencies outside the agency of the lead official to provide training and expert advice under the program.

(2)(A) Personnel used under paragraph (1) shall be personnel who have special skills relevant to the particular assistance that the personnel are to provide.

(B) Capabilities used under paragraph (1) shall be capabilities that are especially relevant to the particular assistance for which the capabilities are used.

(3) If the lead official is not the Secretary of Defense, and requests assistance from the Department of Defense that, in the judgment of the Secretary of Defense would affect military readiness or adversely affect national security, the Secretary of Defense may appeal the request for Department of Defense assistance by the lead official to the President.

(e) Available assistance

Assistance available under this program shall include the following:

(1) Training in the use, operation, and maintenance of equipment for—

(A) detecting a chemical or biological agent or nuclear radiation;

(B) monitoring the presence of such an agent or radiation;

(C) protecting emergency personnel and the public; and

(D) decontamination.

(2) Establishment of a designated telephonic link (commonly referred to as a “hot line”) to a designated source of relevant data and expert advice for the use of State or local officials responding to emergencies involving a weapon of mass destruction or related materials.

(3) Use of the National Guard and other reserve components for purposes authorized under this section that are specified by the lead official (with the concurrence of the Secretary of Defense if the Secretary is not the lead official).

(4) Loan of appropriate equipment.

(f) Limitations on Department of Defense assistance to law enforcement agencies

Assistance provided by the Department of Defense to law enforcement agencies under this section shall be provided under the authority of, and subject to the restrictions provided in, chapter 18 of title 10.

(g) Administration of Department of Defense assistance

The Secretary of Defense shall designate an official within the Department of Defense to serve as the executive agent of the Secretary for

the coordination of the provision of Department of Defense assistance under this section.

(h) Funding

(1) Of the total amount authorized to be appropriated under section 301,¹ \$35,000,000 is available for the program required under this section.

(2) Of the amount available for the program pursuant to paragraph (1), \$10,500,000 is available for use by the Secretary of Defense to assist the Secretary of Health and Human Services in the establishment of metropolitan emergency medical response teams (commonly referred to as “Metropolitan Medical Strike Force Teams”) to provide medical services that are necessary or potentially necessary by reason of a use or threatened use of a weapon of mass destruction.

(3) The amount available for the program under paragraph (1) is in addition to any other amounts authorized to be appropriated for the program under section 301.¹

(Pub. L. 104-201, div. A, title XIV, § 1412, Sept. 23, 1996, 110 Stat. 2718.)

REFERENCES IN TEXT

Section 301, referred to in subsec. (h)(1), (3), is section 301 of Pub. L. 104-201, div. A, title III, Sept. 23, 1996, 110 Stat. 2475, which is not classified to the Code.

§ 2313. Nuclear, chemical, and biological emergency response

(a) Department of Defense

The Secretary of Defense shall designate an official within the Department of Defense as the executive agent for—

(1) the coordination of Department of Defense assistance to Federal, State, and local officials in responding to threats involving biological or chemical weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of biological and chemical weapons and related materials and technologies; and

(2) the coordination of Department of Defense assistance to the Department of Energy in carrying out that department’s responsibilities under subsection (b) of this section.

(b) Department of Energy

The Secretary of Energy shall designate an official within the Department of Energy as the executive agent for—

(1) the coordination of Department of Energy assistance to Federal, State, and local officials in responding to threats involving nuclear, chemical, and biological weapons or related materials or technologies, including assistance in identifying, neutralizing, dismantling, and disposing of nuclear weapons and related materials and technologies; and

(2) the coordination of Department of Energy assistance to the Department of Defense in carrying out that department’s responsibilities under subsection (a) of this section.

(c) Funding

Of the total amount authorized to be appropriated under section 301,¹ \$15,000,000 is available

¹ See References in Text note below.

¹ See References in Text note below.

for providing assistance described in subsection (a) of this section.

(Pub. L. 104-201, div. A, title XIV, § 1413, Sept. 23, 1996, 110 Stat. 2719.)

REFERENCES IN TEXT

Section 301, referred to in subsec. (c), is section 301 of Pub. L. 104-201, div. A, title III, Sept. 23, 1996, 110 Stat. 2475, which is not classified to the Code.

§ 2314. Chemical-biological emergency response team

(a) Department of Defense rapid response team

The Secretary of Defense shall develop and maintain at least one domestic terrorism rapid response team composed of members of the Armed Forces and employees of the Department of Defense who are capable of aiding Federal, State, and local officials in the detection, neutralization, containment, dismantlement, and disposal of weapons of mass destruction containing chemical, biological, or related materials.

(b) Addition to Federal response plan

Not later than December 31, 1997, the Director of the Federal Emergency Management Agency shall develop and incorporate into existing Federal emergency response plans and programs prepared under section 5196(b) of title 42 guidance on the use and deployment of the rapid response teams established under this section to respond to emergencies involving weapons of mass destruction. The Director shall carry out this subsection in consultation with the Secretary of Defense and the heads of other Federal agencies involved with the emergency response plans.

(Pub. L. 104-201, div. A, title XIV, § 1414, Sept. 23, 1996, 110 Stat. 2720.)

§ 2315. Testing of preparedness for emergencies involving nuclear, radiological, chemical, and biological weapons

(a) Emergencies involving chemical or biological weapons

(1) The Secretary of Defense shall develop and carry out a program for testing and improving the responses of Federal, State, and local agencies to emergencies involving biological weapons and related materials and emergencies involving chemical weapons and related materials.

(2) The program shall include exercises to be carried out during each of five successive fiscal years beginning with fiscal year 1997.

(3) In developing and carrying out the program, the Secretary shall coordinate with the Director of the Federal Bureau of Investigation, the Director of the Federal Emergency Management Agency, the Secretary of Energy, and the heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergencies described in paragraph (1).

(b) Emergencies involving nuclear and radiological weapons

(1) The Secretary of Energy shall develop and carry out a program for testing and improving the responses of Federal, State, and local agencies to emergencies involving nuclear and radiological weapons and related materials.

(2) The program shall include exercises to be carried out during each of five successive fiscal years beginning with fiscal year 1997.

(3) In developing and carrying out the program, the Secretary shall coordinate with the Director of the Federal Bureau of Investigation, the Director of the Federal Emergency Management Agency, the Secretary of Defense, and the heads of any other Federal, State, and local government agencies that have an expertise or responsibilities relevant to emergencies described in paragraph (1).

(c) Annual revisions of programs

The official responsible for carrying out a program developed under subsection (a) or (b) of this section shall revise the program not later than June 1 in each fiscal year covered by the program. The revisions shall include adjustments that the official determines necessary or appropriate on the basis of the lessons learned from the exercise or exercises carried out under the program in the fiscal year, including lessons learned regarding coordination problems and equipment deficiencies.

(d) Option to transfer responsibility

(1) The President may designate the head of an agency outside the Department of Defense to assume the responsibility for carrying out the program developed under subsection (a) of this section beginning on or after October 1, 1999, and relieve the Secretary of Defense of that responsibility upon the assumption of the responsibility by the designated official.

(2) The President may designate the head of an agency outside the Department of Energy to assume the responsibility for carrying out the program developed under subsection (b) of this section beginning on or after October 1, 1999, and relieve the Secretary of Energy of that responsibility upon the assumption of the responsibility by the designated official.

(e) Funding

Of the total amount authorized to be appropriated under section 301,¹ \$15,000,000 is available for the development and execution of the programs required by this section, including the participation of State and local agencies in exercises carried out under the programs.

(Pub. L. 104-201, div. A, title XIV, § 1415, Sept. 23, 1996, 110 Stat. 2720.)

REFERENCES IN TEXT

Section 301, referred to in subsec. (e), is section 301 of Pub. L. 104-201, div. A, title III, Sept. 23, 1996, 110 Stat. 2475, which is not classified to the Code.

§ 2316. Actions to increase civilian expertise

(a) to (c) Omitted

(d) Civilian expertise

The President shall take reasonable measures to reduce the reliance of civilian law enforcement officials on Department of Defense resources to counter the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States. The measures shall include—

¹ See References in Text note below.

(1) actions to increase civilian law enforcement expertise to counter such a threat; and

(2) actions to improve coordination between civilian law enforcement officials and other civilian sources of expertise, within and outside the Federal Government, to counter such a threat.

(e) Reports

The President shall submit to Congress the following reports:

(1) Not later than 90 days after September 23, 1996, a report describing the respective policy functions and operational roles of Federal agencies in countering the threat posed by the use or potential use of biological and chemical weapons of mass destruction within the United States.

(2) Not later than one year after September 23, 1996, a report describing—

(A) the actions planned to be taken to carry out subsection (d) of this section; and

(B) the costs of such actions.

(3) Not later than three years after September 23, 1996, a report updating the information provided in the reports submitted pursuant to paragraphs (1) and (2), including the measures taken pursuant to subsection (d) of this section.

(Pub. L. 104–201, div. A, title XIV, § 1416, Sept. 23, 1996, 110 Stat. 2721.)

CODIFICATION

Section is comprised of subsecs. (d) and (e) of section 1416 of Pub. L. 104–201. Subsecs. (a) to (c) of section 1416 enacted section 382 of Title 10, Armed Forces, and sections 175a and 2332d of Title 18, Crimes and Criminal Procedure, and amended section 372 of Title 10.

§ 2317. Rapid response information system

(a) Inventory of rapid response assets

(1) The head of each Federal Response Plan agency shall develop and maintain an inventory of physical equipment and assets under the jurisdiction of that agency that could be made available to aid State and local officials in search and rescue and other disaster management and mitigation efforts associated with an emergency involving weapons of mass destruction. The agency head shall submit a copy of the inventory, and any updates of the inventory, to the Director of the Federal Emergency Management Agency for inclusion in the master inventory required under subsection (b) of this section.

(2) Each inventory shall include a separate listing of any equipment that is excess to the needs of that agency and could be considered for disposal as excess or surplus property for use for response and training with regard to emergencies involving weapons of mass destruction.

(b) Master inventory

The Director of the Federal Emergency Management Agency shall compile and maintain a comprehensive listing of all inventories prepared under subsection (a) of this section. The first such master list shall be completed not later than December 31, 1997, and shall be updated annually thereafter.

(c) Addition to Federal response plan

Not later than December 31, 1997, the Director of the Federal Emergency Management Agency shall develop and incorporate into existing Federal emergency response plans and programs prepared under section 5196(b) of title 42 guidance on accessing and using the physical equipment and assets included in the master list developed under subsection¹ to respond to emergencies involving weapons of mass destruction.

(d) Database on chemical and biological materials

The Director of the Federal Emergency Management Agency, in consultation with the Secretary of Defense, shall prepare a database on chemical and biological agents and munitions characteristics and safety precautions for civilian use. The initial design and compilation of the database shall be completed not later than December 31, 1997.

(e) Access to inventory and database

The Director of the Federal Emergency Management Agency shall design and maintain a system to give Federal, State, and local officials access to the inventory listing and database maintained under this section in the event of an emergency involving weapons of mass destruction or to prepare and train to respond to such an emergency. The system shall include a secure but accessible emergency response hotline to access information and request assistance.

(Pub. L. 104–201, div. A, title XIV, § 1417, Sept. 23, 1996, 110 Stat. 2724.)

SUBCHAPTER II—INTERDICTION OF WEAPONS OF MASS DESTRUCTION AND RELATED MATERIALS

§ 2331. Procurement of detection equipment for United States border security

Of the amount authorized to be appropriated by section 301,¹ \$15,000,000 is available for the procurement of—

(1) equipment capable of detecting the movement of weapons of mass destruction and related materials into the United States;

(2) equipment capable of interdicting the movement of weapons of mass destruction and related materials into the United States; and

(3) materials and technologies related to use of equipment described in paragraph (1) or (2).

(Pub. L. 104–201, div. A, title XIV, § 1421, Sept. 23, 1996, 110 Stat. 2725.)

REFERENCES IN TEXT

Section 301, referred to in text, is section 301 of Pub. L. 104–201, div. A, title III, Sept. 23, 1996, 110 Stat. 2475, which is not classified to the Code.

§ 2332. Sense of Congress concerning criminal penalties

(a) Sense of Congress concerning inadequacy of sentencing guidelines

It is the sense of Congress that the sentencing guidelines prescribed by the United States Sen-

¹So in original. Probably should be “subsection (b) of this section”.

¹See References in Text note below.

tencing Commission for the offenses of importation, attempted importation, exportation, and attempted exportation of nuclear, biological, and chemical weapons materials constitute inadequate punishment for such offenses.

(b) Urging of revision to guidelines

Congress urges the United States Sentencing Commission to revise the relevant sentencing guidelines to provide for increased penalties for offenses relating to importation, attempted importation, exportation, and attempted exportation of nuclear, biological, or chemical weapons or related materials or technologies under the following provisions of law:

- (1) Section 2410 of the Appendix to this title.
- (2) Sections 2778 and 2780 of title 22.
- (3) The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).
- (4) Section 2139a(c) of title 42.

(Pub. L. 104–201, div. A, title XIV, §1423, Sept. 23, 1996, 110 Stat. 2725.)

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsec. (b)(3), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

§ 2333. International border security

(a) Secretary of Defense responsibility

The Secretary of Defense, in consultation and cooperation with the Commissioner of Customs, shall carry out programs for assisting customs officials and border guard officials in the independent states of the former Soviet Union, the Baltic states, and other countries of Eastern Europe in preventing unauthorized transfer and transportation of nuclear, biological, and chemical weapons and related materials. Training, expert advice, maintenance of equipment, loan of equipment, and audits may be provided under or in connection with the programs.

(b) Funding

Of the total amount authorized to be appropriated by section 301,¹ \$15,000,000 is available for carrying out the programs referred to in subsection (a) of this section.

(c) Assistance to states of former Soviet Union

Assistance under programs referred to in subsection (a) of this section may (notwithstanding any provision of law prohibiting the extension of foreign assistance to any of the newly independent states of the former Soviet Union) be extended to include an independent state of the former Soviet Union if the President certifies to Congress that it is in the national interest of the United States to extend assistance under this section to that state.

(Pub. L. 104–201, div. A, title XIV, §1424, Sept. 23, 1996, 110 Stat. 2726.)

REFERENCES IN TEXT

Section 301, referred to in subsec. (b), is section 301 of Pub. L. 104–201, div. A, title III, Sept. 23, 1996, 110 Stat. 2475, which is not classified to the Code.

¹ See References in Text note below.

SUBCHAPTER III—CONTROL AND DISPOSITION OF WEAPONS OF MASS DESTRUCTION AND RELATED MATERIALS THREATENING THE UNITED STATES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2361 of this title.

§ 2341. Elimination of plutonium production

(a) Replacement program

The Secretary of Energy, in consultation with the Secretary of Defense, shall develop a cooperative program with the Government of Russia to eliminate the production of weapons grade plutonium by modifying or replacing the reactor cores at Tomsk-7 and Krasnoyarsk-26 with reactor cores that are less suitable for the production of weapons-grade plutonium.

(b) Program requirements

(1) The program shall be designed to achieve completion of the modifications or replacements of the reactor cores within three years after the modification or replacement activities under the program are begun.

(2) The plan for the program shall—

(A) specify—

- (i) successive steps for the modification or replacement of the reactor cores; and
- (ii) clearly defined milestones to be achieved; and

(B) include estimates of the costs of the program.

(c) Submission of program plan to Congress

Not later than 180 days after September 23, 1996, the Secretary of Defense shall submit to Congress—

(1) a plan for the program under subsection (a) of this section;

(2) an estimate of the United States funding that is necessary for carrying out the activities under the program for each fiscal year covered by the program; and

(3) a comparison of the benefits of the program with the benefits of other nonproliferation programs.

(Pub. L. 104–201, div. A, title XIV, §1432, Sept. 23, 1996, 110 Stat. 2726.)

SUBCHAPTER IV—COORDINATION OF POLICY AND COUNTERMEASURES AGAINST PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

§ 2351. National coordinator on nonproliferation

(a) Designation of position

The President shall designate an individual to serve in the Executive Office of the President as the National Coordinator for Nonproliferation Matters.

(b) Duties

The Coordinator, under the direction of the National Security Council, shall advise and assist the President by—

- (1) advising the President on nonproliferation of weapons of mass destruction, including issues related to terrorism, arms control, and international organized crime;

(2) chairing the Committee on Nonproliferation established under section 2352¹ of this title; and

(3) taking such actions as are necessary to ensure that there is appropriate emphasis in, cooperation on, and coordination of, nonproliferation research efforts of the United States, including activities of Federal agencies as well as activities of contractors funded by the Federal Government.

(c) Allocation of funds

Of the total amount authorized to be appropriated under section 301,¹ \$2,000,000 is available to the Department of Defense for carrying out research referred to in subsection (b)(3) of this section.

(Pub. L. 104-201, div. A, title XIV, § 1441, Sept. 23, 1996, 110 Stat. 2727.)

REFERENCES IN TEXT

Section 2352 of this title, referred to in subsec. (b)(2), was in the original "section 1342", and was translated as reading "section 1442", meaning section 1442 of Pub. L. 104-201, to reflect the probable intent of Congress, because Pub. L. 104-201 does not contain a section 1342, and section 1442 established the Committee on Nonproliferation.

Section 301, referred to in subsec. (c), is section 301 of Pub. L. 104-201, div. A, title III, Sept. 23, 1996, 110 Stat. 2475, which is not classified to the Code.

COMMISSION TO ASSESS ORGANIZATION OF FEDERAL GOVERNMENT TO COMBAT PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

Pub. L. 104-293, title VII, subtitle A, Oct. 11, 1996, 110 Stat. 3470, provided that:

"SEC. 711. ESTABLISHMENT OF COMMISSION.

"(a) ESTABLISHMENT.—There is established a commission to be known as the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction (in this subtitle [subtitle A (§§711-717) of title VII of Pub. L. 104-293] referred to as the 'Commission').

"(b) MEMBERSHIP.—The Commission shall be composed of eight members of whom—

"(1) four shall be appointed by the President;

"(2) one shall be appointed by the Majority Leader of the Senate;

"(3) one shall be appointed by the Minority Leader of the Senate;

"(4) one shall be appointed by the Speaker of the House of Representatives; and

"(5) one shall be appointed by the Minority Leader of the House of Representatives.

"(c) QUALIFICATIONS OF MEMBERS.—(1) To the maximum extent practicable, the individuals appointed as members of the Commission shall be individuals who are nationally recognized for expertise regarding—

"(A) the nonproliferation of weapons of mass destruction;

"(B) the efficient and effective implementation of United States nonproliferation policy; or

"(C) the implementation, funding, or oversight of the national security policies of the United States.

"(2) An official who appoints members of the Commission may not appoint an individual as a member if, in the judgment of the official, the individual possesses any personal or financial interest in the discharge of any of the duties of the Commission.

"(d) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(e) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

"(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

"(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

"(h) MEETINGS.—The Commission shall meet at the call of the Chairman.

"SEC. 712. DUTIES OF COMMISSION.

"(a) STUDY.—

"(1) IN GENERAL.—The Commission shall carry out a thorough study of the organization of the Federal Government, including the elements of the intelligence community, with respect to combatting the proliferation of weapons of mass destruction.

"(2) SPECIFIC REQUIREMENTS.—In carrying out the study, the Commission shall—

"(A) assess the current structure and organization of the departments and agencies of the Federal Government having responsibilities for combatting the proliferation of weapons of mass destruction; and

"(B) assess the effectiveness of United States cooperation with foreign governments with respect to nonproliferation activities, including cooperation—

"(i) between elements of the intelligence community and elements of the intelligence-gathering services of foreign governments;

"(ii) between other departments and agencies of the Federal Government and the counterparts to such departments and agencies in foreign governments; and

"(iii) between the Federal Government and international organizations.

"(3) ASSESSMENTS.—In making the assessments under paragraph (2), the Commission should address—

"(A) the organization of the export control activities (including licensing and enforcement activities) of the Federal Government relating to the proliferation of weapons of mass destruction;

"(B) arrangements for coordinating the funding of United States nonproliferation activities;

"(C) existing arrangements governing the flow of information among departments and agencies of the Federal Government responsible for nonproliferation activities;

"(D) the effectiveness of the organization and function of interagency groups in ensuring implementation of United States treaty obligations, laws, and policies with respect to nonproliferation;

"(E) the administration of sanctions for purposes of nonproliferation, including the measures taken by departments and agencies of the Federal Government to implement, assess, and enhance the effectiveness of such sanctions;

"(F) the organization, management, and oversight of United States counterproliferation activities;

"(G) the recruitment, training, morale, expertise, retention, and advancement of Federal Government personnel responsible for the nonproliferation functions of the Federal Government, including any problems in such activities;

"(H) the role in United States nonproliferation activities of the National Security Council, the Office of Management and Budget, the Office of Science and Technology Policy, and other offices in the Executive Office of the President having responsibilities for such activities;

"(I) the organization of the activities of the Federal Government to verify government-to-government assurances and commitments with respect to nonproliferation, including assurances regarding the future use of commodities exported from the United States; and

¹ See References in Text note below.

“(J) the costs and benefits to the United States of increased centralization and of decreased centralization in the administration of the non-proliferation activities of the Federal Government.

“(b) RECOMMENDATIONS.—In conducting the study, the Commission shall develop recommendations on means of improving the effectiveness of the organization of the departments and agencies of the Federal Government in meeting the national security interests of the United States with respect to the proliferation of weapons of mass destruction. Such recommendations shall include specific recommendations to eliminate duplications of effort, and other inefficiencies, in and among such departments and agencies.

“(c) REPORT.—(1) Not later than 18 months after the date of the enactment of this Act [Oct. 11, 1996], the Commission shall submit to Congress a report containing a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

“(2) The report shall be submitted in unclassified form, but may include a classified annex.

“SEC. 713. POWERS OF COMMISSION.

“(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this subtitle.

“(b) INFORMATION FROM FEDERAL AGENCIES.—

“(1) IN GENERAL.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

“(2) CLASSIFIED INFORMATION.—A department or agency may furnish the Commission classified information under this subsection. The Commission shall take appropriate actions to safeguard classified information furnished to the Commission under this paragraph.

“(c) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

“(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

“SEC. 714. COMMISSION PERSONNEL MATTERS.

“(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

“(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

“(c) STAFF.—

“(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

“(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive direc-

tor and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

“(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

“(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

“SEC. 715. TERMINATION OF COMMISSION.

“The Commission shall terminate 60 days after the date on which the Commission submits its report under section 712(c).

“SEC. 716. DEFINITION.

“For purposes of this subtitle, the term ‘intelligence community’ shall have the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

“SEC. 717. PAYMENT OF COMMISSION EXPENSES.

“The compensation, travel expenses, per diem allowances of members and employees of the Commission, and other expenses of the Commission shall be paid out of funds available to the Director of Central Intelligence for the payment of compensation, travel allowances, and per diem allowances, respectively, of employees of the Central Intelligence Agency.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2354 of this title.

§ 2352. National Security Council Committee on Nonproliferation

(a) Establishment

The Committee on Nonproliferation (in this section referred to as the “Committee”) is established as a committee of the National Security Council.

(b) Membership

(1) The Committee shall be composed of representatives of the following:

- (A) The Secretary of State.
- (B) The Secretary of Defense.
- (C) The Director of Central Intelligence.
- (D) The Attorney General.
- (E) The Secretary of Energy.
- (F) The Administrator of the Federal Emergency Management Agency.
- (G) The Secretary of the Treasury.
- (H) The Secretary of Commerce.
- (I) Such other members as the President may designate.

(2) The National Coordinator for Nonproliferation Matters shall chair the Committee on Nonproliferation.

(c) Responsibilities

The Committee has the following responsibilities:

- (1) To review and coordinate Federal programs, policies, and directives relating to the proliferation of weapons of mass destruction

and related materials and technologies, including matters relating to terrorism and international organized crime.

(2) To make recommendations through the National Security Council to the President regarding the following:

(A) Integrated national policies for countering the threats posed by weapons of mass destruction.

(B) Options for integrating Federal agency budgets for countering such threats.

(C) Means to ensure that Federal, State, and local governments have adequate capabilities to manage crises involving nuclear, radiological, biological, or chemical weapons or related materials or technologies, and to manage the consequences of a use of such weapon or related materials or technologies, and that use of those capabilities is coordinated.

(D) Means to ensure appropriate cooperation on, and coordination of, the following:

(i) Preventing the smuggling of weapons of mass destruction and related materials and technologies.

(ii) Promoting domestic and international law enforcement efforts against proliferation-related efforts.

(iii) Countering the involvement of organized crime groups in proliferation-related activities.

(iv) Safeguarding weapons of mass destruction materials and related technologies.

(v) Improving coordination and cooperation among intelligence activities, law enforcement, and the Departments of Defense, State, Commerce, and Energy in support of nonproliferation and counterproliferation efforts.

(vi) Improving export controls over materials and technologies that can contribute to the acquisition of weapons of mass destruction.

(vii) Reducing proliferation of weapons of mass destruction and related materials and technologies.

(Pub. L. 104-201, div. A, title XIV, § 1442, Sept. 23, 1996, 110 Stat. 2727.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2351, 2353, 2354 of this title.

§ 2353. Comprehensive preparedness program

(a) Program required

The President, acting through the Committee on Nonproliferation established under section 2352 of this title, shall develop a comprehensive program for carrying out this chapter.

(b) Content of program

The program set forth in the report shall include specific plans as follows:

(1) Plans for countering proliferation of weapons of mass destruction and related materials and technologies.

(2) Plans for training and equipping Federal, State, and local officials for managing a crisis involving a use or threatened use of a weapon

of mass destruction, including the consequences of the use of such a weapon.

(3) Plans for providing for regular sharing of information among intelligence, law enforcement, and customs agencies.

(4) Plans for training and equipping law enforcement units, customs services, and border security personnel to counter the smuggling of weapons of mass destruction and related materials and technologies.

(5) Plans for establishing appropriate centers for analyzing seized nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

(6) Plans for establishing in the United States appropriate legal controls and authorities relating to the exporting of nuclear, radiological, biological, and chemical weapons, and related materials and technologies.

(7) Plans for encouraging and assisting governments of foreign countries to implement and enforce laws that set forth appropriate penalties for offenses regarding the smuggling of weapons of mass destruction and related materials and technologies.

(8) Plans for building the confidence of the United States and Russia in each other's controls over United States and Russian nuclear weapons and fissile materials, including plans for verifying the dismantlement of nuclear weapons.

(9) Plans for reducing United States and Russian stockpiles of excess plutonium, reflecting—

(A) consideration of the desirability and feasibility of a United States-Russian agreement governing fissile material disposition and the specific technologies and approaches to be used for disposition of excess plutonium; and

(B) an assessment of the options for United States cooperation with Russia in the disposition of Russian plutonium.

(10) Plans for studying the merits and costs of establishing a global network of means for detecting and responding to terroristic or other criminal use of biological agents against people or other forms of life in the United States or any foreign country.

(c) Report

(1) At the same time that the President submits the budget for fiscal year 1998 to Congress pursuant to section 1105(a) of title 31, the President shall submit to Congress a report that sets forth the comprehensive program developed under subsection (a) of this section.

(2) The report shall include the following:

(A) The specific plans for the program that are required under subsection (b) of this section.

(B) Estimates of the funds necessary, by agency or department, for carrying out such plans in fiscal year 1998 and the following five fiscal years.

(3) The report shall be in an unclassified form. If there is a classified version of the report, the President shall submit the classified version at the same time.

(Pub. L. 104-201, div. A, title XIV, § 1443, Sept. 23, 1996, 110 Stat. 2728.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original “this title”, meaning title XIV of div. A of Pub. L. 104–201, Sept. 23, 1996, 110 Stat. 2714, which is classified principally to this chapter. For complete classification of title XIV to the Code, see Short Title note set out under section 2301 of this title and Tables.

§ 2354. Termination

After September 30, 1999, the President—

(1) is not required to maintain a National Coordinator for Nonproliferation Matters under section 2351¹ of this title; and

(2) may terminate the Committee on Nonproliferation established under section 2352¹ of this title.

(Pub. L. 104–201, div. A, title XIV, § 1444, Sept. 23, 1996, 110 Stat. 2730.)

REFERENCES IN TEXT

Section 2351 of this title, referred to in par. (1), was in the original “section 1341”, and was translated as reading “section 1441”, meaning section 1441 of Pub. L. 104–201, to reflect the probable intent of Congress, because Pub. L. 104–201 does not contain a section 1341, and section 1441 relates to the National Coordinator for Nonproliferation Matters.

Section 2352 of this title, referred to in par. (2), was in the original “section 1342”, and was translated as reading “section 1442”, meaning section 1442 of Pub. L. 104–201, to reflect the probable intent of Congress, because Pub. L. 104–201 does not contain a section 1342, and section 1442 established the Committee on Nonproliferation.

SUBCHAPTER V—MISCELLANEOUS

§ 2361. Sense of Congress concerning contracting policy

It is the sense of Congress that the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State, to the extent authorized by law, should—

(1) contract directly with suppliers in independent states of the former Soviet Union when such action would—

(A) result in significant savings of the programs referred to in subchapter III of this chapter; and

(B) substantially expedite completion of the programs referred to in subchapter III of this chapter; and

(2) seek means to use innovative contracting approaches to avoid delay and increase the effectiveness of such programs and of the exercise of such authorities.

(Pub. L. 104–201, div. A, title XIV, § 1451, Sept. 23, 1996, 110 Stat. 2730.)

§ 2362. Transfers of allocations among cooperative threat reduction programs

Congress finds that—

(1) the various Cooperative Threat Reduction programs are being carried out at different rates in the various countries covered by such programs; and

(2) it is necessary to authorize transfers of funding allocations among the various programs in order to maximize the effectiveness of United States efforts under such programs.

¹ See References in Text note below.

(Pub. L. 104–201, div. A, title XIV, § 1452, Sept. 23, 1996, 110 Stat. 2730.)

SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS

Section 1501 of Pub. L. 104–201 provided that:

“(a) IN GENERAL.—For purposes of section 301 [110 Stat. 2475] and other provisions of this Act [see Tables for classification], Cooperative Threat Reduction programs are the programs specified in subsection (b).

“(b) SPECIFIED PROGRAMS.—The programs referred to in subsection (a) are the following programs with respect to states of the former Soviet Union:

“(1) Programs to facilitate the elimination, and the safe and secure transportation and storage, of nuclear, chemical, and other weapons and their delivery vehicles.

“(2) Programs to facilitate the safe and secure storage of fissile materials derived from the elimination of nuclear weapons.

“(3) Programs to prevent the proliferation of weapons, weapons components, and weapons-related technology and expertise.

“(4) Programs to expand military-to-military and defense contacts.”

§ 2363. Sense of Congress concerning assistance to states of former Soviet Union

It is the sense of Congress that—

(1) the Cooperative Threat Reduction programs and other United States programs authorized in the National Defense Authorization Act for Fiscal Years 1993 and 1994 should be expanded by offering assistance under those programs to other independent states of the former Soviet Union in addition to Russia, Ukraine, Kazakstan, and Belarus; and

(2) the President should offer assistance to additional independent states of the former Soviet Union in each case in which the participation of such states would benefit national security interests of the United States by improving border controls and safeguards over materials and technology associated with weapons of mass destruction.

(Pub. L. 104–201, div. A, title XIV, § 1453, Sept. 23, 1996, 110 Stat. 2730.)

REFERENCES IN TEXT

The National Defense Authorization Act of Fiscal Years 1993 and 1994, referred to in par. (1), probably means the National Defense Authorization Act for Fiscal Year 1993, Pub. L. 102–284, Oct. 23, 1992, 106 Stat. 2315, and the National Defense Authorization Act for Fiscal Year 1994, Pub. L. 103–160, Nov. 30, 1993, 107 Stat. 1547. For complete classification of these Acts to the Code, see Tables.

SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAM

For specification of Cooperative Threat Reduction programs, see section 1501(b) of Pub. L. 104–201, set out as a note under section 2362 of this title.

§ 2364. Purchase of low-enriched uranium derived from Russian highly enriched uranium**(a) Sense of Congress**

It is the sense of Congress that the allies of the United States and other nations should participate in efforts to ensure that stockpiles of weapons-grade nuclear material are reduced.

(b) Actions by Secretary of State

Congress urges the Secretary of State to encourage, in consultation with the Secretary of

Energy, other countries to purchase low-enriched uranium that is derived from highly enriched uranium extracted from Russian nuclear weapons.

(Pub. L. 104-201, div. A, title XIV, § 1454, Sept. 23, 1996, 110 Stat. 2730.)

§ 2365. Sense of Congress concerning purchase, packaging, and transportation of fissile materials at risk of theft

It is the sense of Congress that—

(1) the Secretary of Defense, the Secretary of Energy, the Secretary of the Treasury, and the Secretary of State should purchase, package, and transport to secure locations weapons-grade nuclear materials from a stockpile of such materials if such officials determine that—

(A) there is a significant risk of theft of such materials; and

(B) there is no reasonable and economically feasible alternative for securing such materials; and

(2) if it is necessary to do so in order to secure the materials, the materials should be imported into the United States, subject to the laws and regulations that are applicable to the importation of such materials into the United States.

(Pub. L. 104-201, div. A, title XIV, § 1455, Sept. 23, 1996, 110 Stat. 2731.)

§ 2366. Reports on acquisition of technology relating to weapons of mass destruction and advanced conventional munitions

(a) Reports

Not later than 6 months after October 11, 1996, and every 6 months thereafter, the Director of Central Intelligence shall submit to Congress a report on—

(1) the acquisition by foreign countries during the preceding 6 months of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) and advanced conventional munitions; and

(2) trends in the acquisition of such technology by such countries.

(b) Form of reports

The reports submitted under subsection (a) of this section shall be submitted in unclassified form, but may include a classified annex.

(Pub. L. 104-293, title VII, § 721, Oct. 11, 1996, 110 Stat. 3474.)

CODIFICATION

Section was enacted as part of the Intelligence Authorization Act for Fiscal Year 1997, and not as part of the Defense Against Weapons of Mass Destruction Act of 1996 which comprises this chapter.